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U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536



FILE:



Office: Miami

Date:

JAN 30 2003

IN RE: Applicant:



APPLICATION: Application for Permanent Residence Pursuant to Section 1 of the Cuban Adjustment Act of November 2, 1966 (P.L. 89-732)

IN BEHALF OF APPLICANT: Self-represented

**PUBLIC COPY**

**INSTRUCTIONS:**

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the District Director, Miami, Florida, who certified his decision to the Associate Commissioner, Examinations, for review. The Associate Commissioner affirmed the decision of the district director to deny the application. The matter is now before the Associate Commissioner on a motion to reopen. The motion will be dismissed.

The applicant is a native and citizen of Cuba who filed this application for adjustment of status to that of a lawful permanent resident under section 1 of the Cuban Adjustment Act of November 2, 1966.

The district director denied the application after determining that the applicant was inadmissible to the United States pursuant to sections 212(a)(2)(A)(i)(II) and 212(a)(2)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1182(a)(2)(A)(i)(II) and 1182(a)(2)(C).

Upon review of the record of proceeding, the Associate Commissioner, on June 14, 2002, affirmed the district director's findings that the applicant was inadmissible to the United States, pursuant to sections 212(a)(2)(A)(i)(II) and 212(a)(2)(C) of the Act, based on his convictions of possession and trafficking in controlled substances for which no waiver is available.

In a motion to reopen, filed with the Service on October 29, 2002, the applicant asserts that he is not the same person he was in the 80s, he is a hard-working person, he is an honest man, he is in a society that teaches kids about drug problems, his life has changed over the last five years, he is doing all he can to pay for what he did wrong, he wants to pay society what he owes, and he wants to be a U.S. citizen. The applicant submits affidavits from his employer and friends attesting to his good moral character, and a copy of his 2001 tax return.

Pursuant to 8 C.F.R. 103.5(a)(1)(i), any motion to reopen a proceeding before the Service filed by an applicant or petitioner, must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires, may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and was beyond the control of the applicant or petitioner. A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. 103.5(a)(4).

The record reflects that the Associate Commissioner affirmed the district director's decision to deny the application on June 14, 2002. The applicant had 30 days after June 14, 2002 in which to file a motion to reopen or a motion to reconsider. This motion,

however, was received by the Service on October 29, 2002, more than 4 months after the Associate Commissioner's decision. The applicant neither addressed nor submitted evidence to demonstrate that the delay was reasonable and beyond his control. The motion, therefore, will be dismissed.

**ORDER:** The motion is dismissed.